

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 120

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Howie Morales

AN ACT

RELATING TO HEALTH CARE; AMENDING SECTIONS OF THE MEDICAL
IMAGING AND RADIATION THERAPY HEALTH AND SAFETY ACT TO PERMIT
CERTAIN LICENSED HEALTH CARE PROFESSIONALS AND STUDENTS TO
PERFORM POINT-OF-CARE ULTRASOUND IMAGING PROCEDURES, TO EXEMPT
CERTAIN LICENSED HEALTH CARE PROFESSIONALS FROM CERTAIN
REQUIREMENTS OF THE MEDICAL IMAGING AND RADIATION THERAPY
HEALTH AND SAFETY ACT, TO MAKE TECHNICAL CORRECTIONS AND
CLARIFICATION TO MEDICAL IMAGING AND RADIATION THERAPY
LICENSURE REQUIREMENTS AND TO CHANGE THE NAME OF THE RADIOLOGIC
TECHNOLOGY FUND TO THE MEDICAL IMAGING AND RADIATION THERAPY
FUND; AMENDING A SECTION OF THE NURSING PRACTICE ACT TO PROVIDE
FOR RULEMAKING RELATING TO ULTRASOUND IMAGING EDUCATION AND
STANDARDS; ENACTING A NEW SECTION OF THE PUBLIC HEALTH ACT TO
PROVIDE FOR RULEMAKING RELATING TO ULTRASOUND IMAGING EDUCATION
AND STANDARDS; RECONCILING MULTIPLE AMENDMENTS TO THE SAME

.188388.3

underscored material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 SECTION OF LAW IN LAWS 2003.

2

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

4 SECTION 1. Section 61-14E-4 NMSA 1978 (being Laws 1983,
5 Chapter 317, Section 4, as amended) is amended to read:

6 "61-14E-4. DEFINITIONS.--As used in the Medical Imaging
7 and Radiation Therapy Health and Safety Act:

8 A. "advisory council" means the medical imaging and
9 radiation therapy advisory council;

10 B. "board" means the environmental improvement
11 board;

12 ~~[C. "certificate of limited practice" means a~~
13 ~~certificate issued pursuant to the Medical Imaging and~~
14 ~~Radiation Therapy Health and Safety Act to persons who perform~~
15 ~~restricted diagnostic radiography under direct supervision of a~~
16 ~~licensed practitioner limited to the following specific~~
17 ~~procedures:~~

18 ~~(1) the viscera of the thorax;~~

19 ~~(2) extremities;~~

20 ~~(3) radiation to humans for diagnostic~~
21 ~~purposes in the practice of dentistry;~~

22 ~~(4) axial/appendicular skeleton; or~~

23 ~~(5) the foot, ankle or lower leg;~~

24 ~~D. "certified nurse practitioner" means a person~~
25 ~~licensed pursuant to Section 61-3-23.2 NMSA 1978;~~

.188388.3

underscored material = new
[bracketed material] = delete

1 ~~E.~~ C. "credential" or "certification" means the
2 recognition awarded to an individual who meets the requirements
3 of a credentialing or certification organization in a medical
4 imaging or radiation therapy modality and specialty area;

5 ~~F.~~ D. "credentialing organization" or
6 "certification organization" means a nationally recognized
7 organization recognized by the board that issues credentials or
8 certification through testing or evaluations that determine
9 whether an individual meets defined standards for training and
10 competence in a medical imaging or radiation therapy modality
11 and specialty area;

12 ~~G.~~ E. "department" means the department of
13 environment;

14 ~~H.~~ F. "diagnostic medical sonographer" means a
15 person, including a vascular technologist or echocardiographer,
16 other than a licensed practitioner, who [~~provides patient care~~
17 ~~services~~] performs medical imaging procedures using ultrasound;

18 ~~I.~~ "division" means the environmental health
19 division of the department of environment;

20 G. "diagnostic medical sonography" means the use of
21 specialized equipment to direct ultrasound into areas of the
22 human body to generate images for the assessment, diagnosis and
23 treatment of various medical conditions;

24 H. "direct patient care" means care of a patient
25 provided personally by a health care provider;

.188388.3

underscored material = new
[bracketed material] = delete

1 I. "endorsement" means an additional authorization
2 to a licensee's scope of practice;

3 J. "ionizing radiation" means alpha particles, beta
4 particles, gamma rays, x-rays, neutrons, high-speed electrons,
5 high-speed protons and other particles capable of producing
6 ions; "ionizing radiation" does not include non-ionizing
7 radiation, such as sound waves, radio waves or microwaves, or
8 visible, infrared or ultraviolet light;

9 K. "license" means [~~a document~~] an authorization to
10 perform medical imaging and radiation therapy procedures that
11 has been issued by the department pursuant to the Medical
12 Imaging and Radiation Therapy Health and Safety Act to an
13 individual who has met the requirements of licensure;

14 L. "licensed practitioner" means a person licensed
15 to practice medicine, dentistry, podiatry, chiropractic or
16 osteopathy in this state;

17 M. "licensure" means a grant of authority through a
18 license or limited practice license to perform specific medical
19 imaging and radiation therapy [~~services~~] procedures pursuant to
20 the Medical Imaging and Radiation Therapy Health and Safety
21 Act;

22 N. "limited practice license" means a license
23 issued pursuant to Section 61-14E-7.1 NMSA 1978;

24 [~~N.~~] O. "magnetic resonance technologist" means a
25 person other than a licensed practitioner who performs magnetic

underscored material = new
[bracketed material] = delete

1 resonance procedures under the supervision of a licensed
2 practitioner using magnetic fields and radio frequency signals;

3 [Ø.] P. "medical imaging" means the use of
4 substances or equipment emitting ionizing or non-ionizing
5 radiation on humans for diagnostic or interventional purposes;

6 [~~P. "medical imaging modality" means:~~

7 ~~(1) diagnostic medical sonography and all of~~
8 ~~its subspecialties;~~

9 ~~(2) magnetic resonance imaging and all of its~~
10 ~~subspecialties;~~

11 ~~(3) nuclear medicine technology and all of its~~
12 ~~subspecialties;~~

13 ~~(4) radiation therapy and all of its~~
14 ~~subspecialties; and~~

15 ~~(5) radiography and all of its~~
16 ~~subspecialties;]~~

17 Q. "medical imaging professional" means a person
18 who is a magnetic resonance technologist, radiographer, nuclear
19 medicine technologist or diagnostic medical sonographer and who
20 is licensed pursuant to the Medical Imaging and Radiation
21 Therapy Health and Safety Act;

22 R. "modality" means:

23 (1) diagnostic medical sonography and all
24 specialty areas of diagnostic medical sonography;

25 (2) magnetic resonance imaging and all

.188388.3

underscored material = new
[bracketed material] = delete

1 specialty areas of magnetic resonance imaging;

2 (3) nuclear medicine technology and all

3 speciality areas of nuclear medicine technology;

4 (4) radiation therapy and all specialty areas
5 of radiation therapy; and

6 (5) radiography and all specialty areas of
7 radiography;

8 [R-] S. "non-ionizing radiation" means the [~~optical~~
9 ~~radiations, including ultraviolet, visible, infrared and~~
10 ~~lasers~~] static and time-varying electric and magnetic fields
11 and radio frequency, including microwave radiation and
12 ultrasound;

13 T. "non-physician practitioner" means a:

14 (1) nurse licensed pursuant to the Nursing
15 Practice Act;

16 (2) certified nurse-midwife licensed pursuant
17 to the Public Health Act;

18 (3) osteopathic physician's assistant licensed
19 pursuant to the Osteopathic Physicians' Assistants Act; or

20 (4) physician assistant licensed pursuant to
21 the Physician Assistant Act;

22 [~~S-~~] U. "nuclear medicine technologist" means a
23 person other than a licensed practitioner who applies
24 pharmaceutical or radiopharmaceutical agents to humans for
25 diagnostic or therapeutic nuclear medicine purposes under the

underscored material = new
[bracketed material] = delete

1 direction of a licensed practitioner;

2 ~~[T. "physician assistant" means a person licensed~~
3 ~~pursuant to Section 61-6-7 or 61-10A-4 NMSA 1978;]~~

4 V. "point-of-care ultrasound imaging" means the
5 limited use of ultrasound to create real-time images necessary
6 for direct patient care, within a point-of-care ultrasound
7 imaging provider's scope of practice, that are not transmitted
8 or referred for interpretation by a licensed practitioner or a
9 non-physician practitioner;

10 W. "point-of-care ultrasound imaging provider"
11 means an individual who:

12 (1) has acquired the necessary knowledge,
13 skills and training in the specific procedure to be performed
14 and who provides point-of-care ultrasound imaging pursuant to
15 the individual's scope of practice; and

16 (2) is certified or licensed in this state as:

17 (a) a paramedic pursuant to the
18 Emergency Medical Services Act;

19 (b) a phlebotomist certified by a
20 credentialing organization recognized by the board; or

21 (c) a physician assistant pursuant to
22 the Physician Assistant Act or an osteopathic physician's
23 assistant pursuant to the Osteopathic Physicians' Assistants
24 Act;

25 ~~[U.]~~ X. "radiation therapy" means the application

underscored material = new
[bracketed material] = delete

1 of ionizing radiation to humans for therapeutic purposes;

2 [V.] Y. "radiation [~~therapy technologist~~
3 therapist" means a person other than a licensed practitioner
4 whose application of ionizing and non-ionizing radiation to
5 humans is for therapeutic purposes;

6 [W.] Z. "radiographer" means a person other than a
7 licensed practitioner whose application of radiation to humans
8 is for diagnostic or interventional purposes;

9 [X.] AA. "radiography" means the application of
10 radiation to humans for diagnostic or interventional purposes,
11 including adjustment or manipulation of x-ray systems and
12 accessories, including image receptors, positioning of
13 patients, processing of films and any other action that
14 materially affects the radiation dose to patients;

15 [Y.] BB. "radiologist" means a licensed
16 practitioner certified by the American board of radiology, the
17 British royal college of [~~radiology~~] radiologists, the American
18 osteopathic board of radiology or the American chiropractic
19 board of radiology; [~~and~~

20 Z.] CC. "radiologist assistant" means an individual
21 licensed as a radiographer as defined in the Medical Imaging
22 and Radiation Therapy Health and Safety Act who holds
23 additional certification as a registered radiologist assistant
24 by the American registry of radiologic technologists and who
25 works under the supervision of a radiologist; provided that a

.188388.3

underscored material = new
[bracketed material] = delete

1 radiologist assistant shall not interpret images, render
2 diagnoses or prescribe medications or therapies;

3 DD. "restricted" means having a limitation on a
4 licensee's license term or scope of practice;

5 EE. "specialty area" means an area of
6 specialization within a medical imaging or radiation therapy
7 modality as designated by the applicable certification or
8 credentialing organization;

9 FF. "supervision" means the direction or oversight
10 of a medical imaging or radiation therapy procedure and
11 includes the following levels of supervision:

12 (1) "direct supervision" means supervision
13 where the individual supervising a procedure is present in the
14 facility and immediately available to furnish assistance and
15 direction during the performance of the procedure;

16 (2) "general supervision" means supervision
17 where the individual supervising a procedure provides overall
18 direction and control but is not present in the facility or
19 room during the performance of the procedure; and

20 (3) "personal supervision" means supervision
21 where the individual supervising a procedure is present in the
22 room during the performance of the procedure; and

23 GG. "ultrasound" means the use of non-ionizing
24 high-frequency sound waves with specialized equipment to direct
25 the sound waves into areas of the human body to generate images

.188388.3

underscored material = new
[bracketed material] = delete

1 for the assessment, diagnosis and treatment of various medical
2 conditions; for purposes of the Medical Imaging and Radiation
3 Therapy Health and Safety Act, "ultrasound" does not include
4 the use of high-frequency sound waves for non-imaging medical
5 applications."

6 SECTION 2. Section 61-14E-5.1 NMSA 1978 (being Laws 2009,
7 Chapter 106, Section 12) is amended to read:

8 "61-14E-5.1. MEDICAL IMAGING AND RADIATION THERAPY
9 ADVISORY COUNCIL--CREATION AND ORGANIZATION.--

10 A. The "medical imaging and radiation therapy
11 advisory council" is established, consisting of eleven members.
12 The members shall be appointed by the governor, after
13 consultation with the secretary of environment and professional
14 organizations representing medical imaging and radiation
15 therapy, for three-year staggered terms. The governor shall
16 fill any vacancy occurring on the advisory council within sixty
17 days of the vacancy. The replacement appointee shall serve the
18 remainder of the original member's unexpired term.

19 B. The members of the advisory council shall be:

20 (1) six ~~[medical imaging professionals~~
21 ~~licensed by the department]~~ licensees, representing each
22 medical imaging and radiation therapy modality defined under
23 the Medical Imaging and Radiation Therapy Health and Safety
24 Act, including ~~[one licensed radiographer and]~~ one licensed
25 radiologist assistant;

.188388.3

underscored material = new
[bracketed material] = delete

1 (2) one individual who holds a [~~certificate~~
2 of] limited practice license in radiography;

3 (3) three physicians licensed pursuant to
4 Section 61-6-1 or 61-10-1 NMSA 1978, each of whom represents a
5 different medical specialty, only one of whom shall be a
6 radiologist and at least one of whom shall be from a rural
7 area; and

8 (4) one member of the general public who is
9 not [~~licensed by the department~~] a licensee nor a relative of
10 anyone licensed by the department.

11 C. The advisory council may create ad hoc
12 disciplinary review committees to consider medical matters and
13 make recommendations to the advisory council. Ad hoc
14 disciplinary review committees shall, at a minimum, include:

15 (1) one [~~individual licensed by the~~
16 ~~department~~] licensee in the specific modality in question and
17 who holds similar credentials as the individual under
18 disciplinary review;

19 (2) one physician, licensed pursuant to
20 Section 61-6-1 or 61-10-1 NMSA 1978, who is experienced in the
21 modality in question; and

22 (3) one member of the general public.

23 D. A member shall serve no more than two
24 consecutive three-year terms.

25 E. A member of the advisory council or an ad hoc

.188388.3

underscored material = new
[bracketed material] = delete

1 disciplinary review committee may receive per diem and mileage
2 as provided for non-salaried public officers in the Per Diem
3 and Mileage Act and shall receive no other compensation,
4 perquisite or allowance in connection with the discharge of the
5 duties as [~~a~~] an advisory council or committee member.

6 F. A member failing to attend three consecutive
7 regular and properly noticed meetings of the advisory council
8 without a reasonable excuse shall be automatically removed from
9 the advisory council.

10 G. In the event of a vacancy, the department shall
11 immediately notify the governor of the vacancy. Within ninety
12 days of receiving notice of a vacancy, the governor shall
13 appoint a qualified person to fill the remainder of the
14 unexpired term.

15 H. A majority of the advisory council members
16 currently serving constitutes a quorum of the council.

17 I. The advisory council shall meet at least once a
18 year and at such other times as it deems necessary.

19 J. The advisory council shall annually elect
20 officers as deemed necessary to administer its duties.

21 K. Notwithstanding the provisions of Subsections A
22 through I of this section, members shall initially be appointed
23 by the governor so that five members shall be appointed for
24 terms of three years and six members shall be appointed for
25 terms of five years. Thereafter, the additional members shall

.188388.3

underscored material = new
[bracketed material] = delete

1 be appointed by the governor for staggered terms of three years
2 each.

3 L. As used in this section:

4 (1) "relative" means a person's spouse,
5 parent, grandparent, stepfather, stepmother, child, grandchild,
6 brother, sister, half-brother, half-sister or spouse's parent;
7 and

8 (2) "rural" means an area or location within a
9 county having fifty thousand or fewer inhabitants as of the
10 last federal decennial census."

11 SECTION 3. Section 61-14E-6 NMSA 1978 (being Laws 1983,
12 Chapter 317, Section 6, as amended) is amended to read:

13 "61-14E-6. [~~DIVISION~~] DEPARTMENT--POWERS--DUTIES.--The
14 [~~division~~] department, pursuant to the rules and regulations
15 promulgated by the board, shall:

16 A. maintain and enforce licensure standards for
17 magnetic resonance, radiography, radiation therapy
18 [~~technology~~], nuclear medicine technology, diagnostic medical
19 sonography [~~and radiology~~] and limited practice licensure
20 standards for restricted diagnostic radiography and may:

21 (1) require students in medical imaging and
22 radiation therapy educational programs to register with the
23 department while enrolled in an approved education program; and

24 (2) adopt rules and regulations for the
25 education and licensure of advanced medical imaging

.188388.3

underscored material = new
[bracketed material] = delete

1 professionals;

2 B. refer to national educational accreditation
3 standards for educational programs and, pursuant to those
4 standards, establish criteria for education programs of
5 magnetic resonance, radiography, radiation therapy
6 [~~technology~~], nuclear medicine technology and diagnostic
7 medical sonography;

8 C. provide for surveys of educational programs
9 preparing persons for [~~certification~~] licensure under the
10 Medical Imaging and Radiation Therapy Health and Safety Act;

11 D. grant, deny or withdraw approval from
12 educational programs for failure to meet prescribed standards,
13 provided that a majority of the board concurs in any decision;

14 E. establish procedures for examination,
15 [~~certification~~] licensure and renewal of [~~certificates~~]
16 licensure of applicants; and

17 F. establish scope of practice and ethics rules."

18 SECTION 4. Section 61-14E-7 NMSA 1978 (being Laws 1983,
19 Chapter 317, Section 7, as amended) is amended to read:

20 "61-14E-7. LICENSURE--EXCEPTIONS.--

21 A. It is unlawful, unless licensed by the
22 department as a medical imaging professional or radiation
23 therapist, for any person to:

24 (1) use ionizing or non-ionizing radiation on
25 humans;

.188388.3

underscored material = new
[bracketed material] = delete

1 (2) use any title, abbreviation, letters,
2 figures, signs or other devices to indicate that the person is
3 a licensed medical imaging professional or radiation therapist;
4 or

5 (3) engage in any of the medical imaging
6 modalities as defined by the Medical Imaging and Radiation
7 Therapy Health and Safety Act.

8 B. Notwithstanding any other provision of the
9 Medical Imaging and Radiation Therapy Health and Safety Act,
10 the requirement of a medical imaging license shall not apply to
11 ~~[a licensed practitioner or auxiliary or health practitioner~~
12 ~~licensed or certified by an independent board; provided that~~
13 ~~any certification and examination program for auxiliaries or~~
14 ~~health practitioners established by an independent board shall~~
15 ~~be submitted to the advisory council and approved by the board.~~
16 ~~The requirement of a medical imaging license shall also not~~
17 ~~apply to a student who is enrolled in and attending a required~~
18 ~~individual education program of a school or college of~~
19 ~~medicine, osteopathy, chiropractic, podiatry, dentistry or~~
20 ~~dental hygiene to apply radiation to humans under the~~
21 ~~supervision of a licensed practitioner or under the direct~~
22 ~~supervision of a licensed medical imaging professional or~~
23 ~~radiation therapist]:~~

24 (1) a licensed practitioner;

25 (2) a nurse licensed pursuant to the Nursing

underscored material = new
[bracketed material] = delete

1 Practice Act performing ultrasound procedures;

2 (3) a certified nurse-midwife licensed
3 pursuant to the Public Health Act performing ultrasound
4 procedures; or

5 (4) a student who:

6 (a) is enrolled in and attending an
7 accredited educational program at a college of medicine,
8 osteopathy, chiropractic, podiatry, dentistry or dental hygiene
9 and who performs a medical imaging or radiation therapy
10 modality and practices in a specialty area authorized under the
11 scope of practice for the student's professional program;

12 (b) performs a medical imaging or
13 radiation therapy procedure under the supervision of a licensed
14 practitioner or under the direct supervision of an individual
15 licensed in the medical imaging or radiation therapy modality
16 and specialty area; and

17 (c) is enrolled in and attending an
18 accredited education program and who performs ultrasound
19 authorized under the scope of practice for the student's
20 professional program.

21 C. Notwithstanding any other provision of the
22 Medical Imaging and Radiation Therapy Health and Safety Act,
23 the requirement of licensure shall not apply to point-of-care
24 ultrasound imaging performed in this state by:

25 (1) a point-of-care ultrasound imaging

.188388.3

underscored material = new
[bracketed material] = delete

1 provider; or

2 (2) a student who is enrolled in an accredited
3 program in preparation for licensure as a point-of-care
4 ultrasound imaging provider who performs point-of-care
5 ultrasound imaging under the direct supervision of a licensed
6 practitioner, point-of-care ultrasound imaging provider or
7 licensed diagnostic medical sonographer.

8 [G.] D. Notwithstanding any other provision of the
9 Medical Imaging and Radiation Therapy Health and Safety Act,
10 the requirement of a license shall not apply to a student
11 completing clinical requirements of an approved education
12 program working under the supervision of a licensed
13 practitioner or under the direct supervision of a medical
14 imaging professional or radiation therapist licensed in the
15 practice for which the student is seeking licensure.

16 ~~[D. The department shall adopt rules and~~
17 ~~regulations for the education and licensure of advanced medical~~
18 ~~imaging professionals.~~

19 ~~E. The department may require students in medical~~
20 ~~imaging and radiation therapy educational programs to register~~
21 ~~with the department while enrolled in an approved education~~
22 ~~program.]~~

23 E. Nothing in the Medical Imaging and Radiation
24 Therapy Health and Safety Act shall affect the authority of a
25 licensed health care professional licensed pursuant to Chapter

.188388.3

underscored material = new
[bracketed material] = delete

1 61 or Chapter 24 NMSA 1978 to use images resulting from medical
2 imaging procedures in accordance with the licensed health care
3 professional's scope of practice."

4 SECTION 5. Section 61-14E-7.1 NMSA 1978 (being Laws 1994,
5 Chapter 82, Section 2) is amended to read:

6 "61-14E-7.1. EMERGENCY PROVISION.--

7 A. A person having a valid [~~certificate of~~] limited
8 practice license may authorize diagnostic radiography
9 procedures outside the normal scope of a limited radiographic
10 practitioner if the person issued the [~~certificate of~~] limited
11 practice license is employed in an area having a federal
12 designation as a medically underserved area and the person
13 issued the [~~certificate of~~] limited practice license is
14 confronted with an emergency situation where, by order of a
15 licensed practitioner [~~a certified nurse practitioner or a~~
16 ~~registered physician assistant~~] or a non-physician practitioner
17 in accordance with the licensed practitioner's or non-physician
18 practitioner's scope of practice, the additional diagnostic
19 radiography procedure is medically necessary for the immediate
20 safety or health of the patient.

21 B. A person who performs non-mobile restricted
22 diagnostic radiography pursuant to the provisions of this
23 section shall be limited to the following procedures:

24 (1) applying radiation to humans for
25 diagnostic purposes in the practice of dentistry; or

.188388.3

underscored material = new
[bracketed material] = delete

1 (2) applying radiation to these specific areas
2 of the human body:

- 3 (a) the viscera of the thorax;
- 4 (b) extremities;
- 5 (c) axial or appendicular skeleton; or
- 6 (d) the foot, ankle or lower leg.

7 C. If the board determines that additional time is
8 needed, the board may delay full implementation of licensure
9 requirements for diagnostic medical sonography and magnetic
10 resonance imaging under the Medical Imaging and Radiation
11 Therapy Health and Safety Act until no later than July 1,
12 2016."

13 SECTION 6. Section 61-14E-8 NMSA 1978 (being Laws 1991,
14 Chapter 14, Section 3, as amended) is amended to read:

15 "61-14E-8. TEMPORARY CERTIFICATION.--

16 A. The department may issue a temporary
17 [~~certificate to practice as a radiologic technologist~~] license
18 to a person who satisfactorily completes an approved program in
19 [~~radiologic technology~~] medical imaging or radiation therapy;
20 provided that the temporary [~~certificate~~] license:

21 [~~A.~~] (1) is applied for no more than sixty
22 days before graduation or within one year of graduation;

23 [~~B.~~] (2) is valid only for a period not to
24 exceed one year; and

25 [~~C.~~] (3) is only issued to a person once [~~and~~

underscored material = new
[bracketed material] = delete

1 ~~D. is contingent upon successful completion of an~~
2 ~~examination required by the board and expires upon failure to~~
3 ~~pass the examination].~~

4 B. If an individual who has been issued a temporary
5 license fails to graduate from an educational program in
6 medical imaging or radiation therapy, a temporary license is no
7 longer valid and the person shall notify the department within
8 thirty days of leaving the educational program.

9 C. The department may issue temporary endorsements
10 to allow a licensee to perform medical imaging or radiation
11 therapy procedures in one or more additional specialty areas of
12 the licensee's authorized modality; provided that the temporary
13 endorsement:

14 (1) is valid for a period not to exceed two
15 years;

16 (2) is only issued to a person once for a
17 specific specialty area; and

18 (3) is valid only when the licensee performs
19 under the supervision of a licensed practitioner or a person
20 licensed in the medical imaging or radiation therapy modality
21 and specialty area being performed."

22 SECTION 7. Section 61-14E-10 NMSA 1978 (being Laws 1983,
23 Chapter 317, Section 10, as amended) is amended to read:

24 "61-14E-10. FUND ESTABLISHED--DISPOSITION--METHOD OF
25 PAYMENT.--

.188388.3

underscored material = new
[bracketed material] = delete

1 A. There is created in the state treasury the
2 ~~["radiologic technology]~~ "medical imaging and radiation therapy
3 fund".

4 B. All fees received by the department pursuant to
5 the Medical Imaging and Radiation Therapy Health and Safety Act
6 shall be deposited with the state treasurer. The state
7 treasurer shall place the money to the credit of the
8 ~~[radiologic technology]~~ medical imaging and radiation therapy
9 fund.

10 C. Payments out of the ~~[radiologic technology]~~
11 medical imaging and radiation therapy fund shall be on vouchers
12 issued and signed by the ~~[person]~~ individual designated by the
13 department of environment upon warrants drawn by the department
14 of finance and administration and shall be used by the
15 department of environment for the purpose of meeting necessary
16 expenses incurred in the enforcement of the purposes of the
17 Medical Imaging and Radiation Therapy Health and Safety Act,
18 the duties imposed by that act and the promotion of education
19 and standards for medical imaging technology and radiation
20 therapy in this state. All money unexpended or unencumbered at
21 the end of the fiscal year shall remain in the ~~[radiologic~~
22 ~~technology]~~ medical imaging and radiation therapy fund for use
23 in accordance with the provisions of the Medical Imaging and
24 Radiation Therapy Health and Safety Act."

25 **SECTION 8.** Section 61-14E-11 NMSA 1978 (being Laws 1983,
 .188388.3

underscored material = new
[bracketed material] = delete

1 Chapter 317, Section 11, as amended) is amended to read:

2 "61-14E-11. SUSPENSION--REVOCATION--APPLICATION OF
3 UNIFORM LICENSING ACT.--The board, pursuant to the advice and
4 recommendation of the advisory council, may deny, revoke or
5 suspend any license held or applied for under the Medical
6 Imaging and Radiation Therapy Health and Safety Act, pursuant
7 to the procedures established in the Uniform Licensing Act,
8 upon grounds that the medical imaging professional, radiation
9 therapist or the applicant:

10 A. is guilty of fraud or deceit in procuring or
11 attempting to procure a license or [~~certificate of~~] limited
12 practice license;

13 B. is convicted of a felony subsequent to
14 [~~certification~~] licensure;

15 C. is unfit or incompetent;

16 D. is habitually intemperate or is addicted to the
17 use of habit-forming drugs;

18 E. is mentally incompetent;

19 F. has aided and abetted a person who does not
20 possess a license pursuant to the Medical Imaging and Radiation
21 Therapy Health and Safety Act or otherwise authorized by that
22 act in engaging in the activities of a license holder;

23 G. has engaged in any practice beyond the scope of
24 authorized activities of [~~an individual licensed or a~~
25 ~~certificate of limited practice holder pursuant to~~] a licensee

.188388.3

underscored material = new
[bracketed material] = delete

1 under the Medical Imaging and Radiation Therapy Health and
2 Safety Act;

3 H. is guilty of unprofessional conduct or unethical
4 conduct as defined by rules promulgated by the board;

5 I. except in cases where a board rule has
6 authorized preliminary findings from diagnostic medical
7 sonography procedures, has interpreted a diagnostic imaging
8 procedure for a patient, the patient's family or the public; or

9 J. has willfully or repeatedly violated any
10 provisions of the Medical Imaging and Radiation Therapy Health
11 and Safety Act."

12 SECTION 9. Section 61-14E-12 NMSA 1978 (being Laws 1983,
13 Chapter 317, Section 12, as amended) is amended to read:

14 "61-14E-12. VIOLATIONS--PENALTIES.--

15 A. It is a misdemeanor for any person, firm,
16 association or corporation to:

17 ~~[A.]~~ (1) knowingly or willfully employ as a
18 medical imaging professional or radiation therapist any person
19 who is required to but does not possess a valid license ~~[or~~
20 ~~certificate of limited practice]~~ to engage in the practice of
21 medical imaging or radiation therapy;

22 ~~[B.]~~ (2) sell, fraudulently obtain or furnish
23 any medical imaging ~~[technology]~~ or radiation therapy license
24 ~~[or certificate of limited practice]~~ or to aid or abet therein;

25 ~~[G.]~~ (3) practice medical imaging or radiation

.188388.3

underscored material = new
[bracketed material] = delete

1 therapy as defined by the Medical Imaging and Radiation Therapy
2 Health and Safety Act unless exempted or licensed to do so
3 under the provisions of that act; or

4 ~~[D-]~~ (4) otherwise violate any provisions of
5 the Medical Imaging and Radiation Therapy Health and Safety
6 Act.

7 B. The department shall assist the proper legal
8 authorities in the prosecution of all persons violating the
9 provisions of the Medical Imaging and Radiation Therapy Health
10 and Safety Act. In prosecutions under that act, it shall not
11 be necessary to prove a general course of conduct. Proof of a
12 single act, a single holding out or a single attempt shall
13 constitute a violation, and, upon conviction, such person shall
14 be sentenced to be imprisoned in the county jail for a definite
15 term not to exceed one year or to the payment of a fine of not
16 more than one thousand dollars (\$1,000) or both. The
17 department shall notify within thirty days of a final
18 disciplinary action any credentialing organization through
19 which the person is credentialed or certified."

20 **SECTION 10.** Section 61-6-17 NMSA 1978 (being Laws 1973,
21 Chapter 361, Section 8, as amended) is amended to read:

22 "61-6-17. EXCEPTIONS TO ACT.--The Medical Practice Act
23 shall not apply to or affect:

24 A. gratuitous services rendered in cases of
25 emergency;

.188388.3

underscoring material = new
~~[bracketed material] = delete~~

1 B. the domestic administration of family remedies;

2 C. the practice of midwifery as regulated in this
3 state;

4 D. commissioned medical officers of the armed
5 forces of the United States and medical officers of the United
6 States public health service or the veterans administration of
7 the United States in the discharge of their official duties or
8 within federally controlled facilities; provided that such
9 persons who hold medical licenses in New Mexico shall be
10 subject to the provisions of the Medical Practice Act and
11 provided that all such persons shall be fully licensed to
12 practice medicine in one or more jurisdictions of the United
13 States;

14 E. the practice of medicine by a physician,
15 unlicensed in New Mexico, who performs emergency medical
16 procedures in air or ground transportation on a patient from
17 inside of New Mexico to another state or back, provided the
18 physician is duly licensed in that state;

19 F. the practice, as defined and limited under their
20 respective licensing laws, of:

21 (1) osteopathy;

22 (2) dentistry;

23 (3) podiatry;

24 (4) nursing;

25 (5) optometry;

underscored material = new
[bracketed material] = delete

- 1 (6) psychology;
- 2 (7) chiropractic;
- 3 (8) pharmacy;
- 4 (9) acupuncture and oriental medicine; or
- 5 (10) physical therapy;

6 G. an act, task or function performed by a
7 physician assistant at the direction of and under the
8 supervision of a licensed physician, when:

- 9 (1) the physician assistant is currently
10 licensed by the board;
- 11 (2) the act, task or function is performed at
12 the direction of and under the supervision of a licensed
13 physician in accordance with rules promulgated by the board;
14 and
- 15 (3) the acts of the physician assistant are
16 within the scope of duties assigned or delegated by the
17 supervising licensed physician and the acts are within the
18 scope of the assistant's training;

19 H. an act, task or function of laboratory
20 technicians or technologists, [~~x-ray technicians, nurse~~
21 ~~practitioners~~] nurses, medical or surgical assistants or other
22 technicians or qualified persons permitted by law or
23 established by custom as part of the duties delegated to them
24 by:

- 25 (1) a licensed physician or a hospital, clinic

underscored material = new
[bracketed material] = delete

1 or institution licensed or approved by the public health
2 division of the department of health or an agency of the
3 federal government; or

4 (2) a health care program operated or financed
5 by an agency of the state or federal government;

6 I. a properly trained medical or surgical assistant
7 or technician or professional licensee performing under the
8 physician's employment and direct supervision or a visiting
9 physician or surgeon operating under the physician's direct
10 supervision a medical act that a reasonable and prudent
11 physician would find within the scope of sound medical judgment
12 to delegate if, in the opinion of the delegating physician, the
13 act can be properly and safely performed in its customary
14 manner and if the person does not hold [~~himself~~] the person's
15 own self out to the public as being authorized to practice
16 medicine in New Mexico. The delegating physician shall remain
17 responsible for the medical acts of the person performing the
18 delegated medical acts;

19 J. the practice of the religious tenets of a church
20 in the ministrations to the sick or suffering by mental or
21 spiritual means as provided by law; provided that the Medical
22 Practice Act shall not be construed to exempt a person from the
23 operation or enforcement of the sanitary and quarantine laws of
24 the state;

25 K. the acts of a physician licensed under the laws

.188388.3

underscoring material = new
~~[bracketed material] = delete~~

1 of another state of the United States who is the treating
2 physician of a patient and orders home health or hospice
3 services for a resident of New Mexico to be delivered by a home
4 and community support services agency licensed in this state;
5 provided that a change in the condition of the patient shall be
6 physically reevaluated by the treating physician in the
7 treating physician's jurisdiction or by a licensed New Mexico
8 physician;

9 L. a physician licensed to practice under the laws
10 of another state who acts as a consultant to a New Mexico-
11 licensed physician on an irregular or infrequent basis, as
12 defined by rule of the board; and

13 M. a physician who engages in the informal practice
14 of medicine across state lines without compensation or
15 expectation of compensation; provided that the practice of
16 medicine across state lines conducted within the parameters of
17 a contractual relationship shall not be considered informal and
18 is subject to licensure and rule by the board."

19 **SECTION 11.** Section 61-3-10 NMSA 1978 (being Laws 1968,
20 Chapter 44, Section 7, as amended by Laws 2003, Chapter 276,
21 Section 4 and by Laws 2003, Chapter 307, Section 7) is amended
22 to read:

23 "61-3-10. POWERS--DUTIES.--The board:

24 A. shall adopt and revise such rules and
25 regulations as may be necessary to enable it to carry into

.188388.3

underscoring material = new
~~[bracketed material] = delete~~

1 effect the provisions of the Nursing Practice Act and to
2 maintain high standards of practice;

3 B. shall prescribe standards and approve curricula
4 for educational programs preparing persons for licensure under
5 the Nursing Practice Act;

6 C. shall provide for surveys of educational
7 programs preparing persons for licensure under the Nursing
8 Practice Act;

9 D. shall grant, deny or withdraw approval from
10 educational programs for failure to meet prescribed standards,
11 if a majority of the board concurs in the decision;

12 E. shall provide for the examination, licensing and
13 renewal of licenses of applicants;

14 F. shall conduct hearings upon charges relating to
15 discipline of a licensee or nurse not licensed to practice in
16 New Mexico who is permitted to practice professional registered
17 nursing or licensed practical nursing in New Mexico pursuant to
18 a multistate licensure privilege as provided in the Nurse
19 Licensure Compact or the denial, suspension or revocation of a
20 license in accordance with the procedures of the Uniform
21 Licensing Act;

22 G. shall cause the prosecution of all persons,
23 including firms, associations, institutions and corporations,
24 violating the Nursing Practice Act and have the power to incur
25 such expense as is necessary therefor;

.188388.3

underscoring material = new
~~[bracketed material] = delete~~

1 H. shall keep a record of all proceedings;

2 I. shall make an annual report to the governor;

3 J. shall appoint and employ a qualified registered
4 nurse, who shall not be a member of the board, to serve as
5 executive officer to the board, who shall define the duties and
6 responsibilities of the executive officer, except that the
7 power to grant, deny or withdraw approval for schools of
8 nursing or to revoke, suspend or withhold any license
9 authorized by the Nursing Practice Act shall not be delegated
10 by the board;

11 K. shall provide for such qualified assistants as
12 may be necessary to carry out the provisions of the Nursing
13 Practice Act. Such employees shall be paid a salary
14 commensurate with their duties;

15 L. shall, for the purpose of protecting the health
16 and well-being of the citizens of New Mexico and promoting
17 current nursing knowledge and practice, adopt rules and
18 regulations establishing continuing education requirements as a
19 condition of license renewal and shall study methods of
20 monitoring continuing competence;

21 M. may appoint advisory committees consisting of at
22 least one member who is a board member and at least two members
23 expert in the pertinent field of health care to assist it in
24 the performance of its duties. Committee members may be
25 reimbursed as provided in the Per Diem and Mileage Act;

.188388.3

underscored material = new
[bracketed material] = delete

1 N. may adopt and revise rules and regulations
2 designed to maintain an inactive status listing for registered
3 nurses and licensed practical nurses;

4 O. may adopt rules and regulations to regulate the
5 advanced practice of professional registered nursing and
6 expanded practice of licensed practical nursing;

7 P. shall license qualified certified nurse
8 practitioners, certified registered nurse anesthetists and
9 clinical nurse specialists;

10 Q. shall register nurses not licensed to practice
11 in New Mexico who are permitted to practice professional
12 registered nursing or licensed practical nursing in
13 New Mexico pursuant to a multistate licensure privilege as
14 provided in the Nurse Licensure Compact; ~~and~~

15 R. shall adopt rules and regulations establishing
16 standards for authorizing prescriptive authority to certified
17 nurse practitioners, ~~and~~ clinical nurse specialists and
18 certified registered nurse anesthetists; and

19 S. shall adopt rules for education and training
20 that meet nationally recognized standards of practice for the
21 provision of ultrasound procedures."

22 SECTION 12. A new section of the Public Health Act is
23 enacted to read:

24 "[NEW MATERIAL] ULTRASOUND PROCEDURES--RULEMAKING.--

25 A. The department of health shall adopt rules for

.188388.3

underscored material = new
~~[bracketed material] = delete~~

1 education and training for nurse-midwives in the provision of
2 ultrasound procedures that meet nationally recognized
3 ultrasound education and training standards.

4 B. For the purposes of this section, "nurse-
5 midwife" means a registered nurse whom the department of health
6 has licensed as a nurse-midwife."